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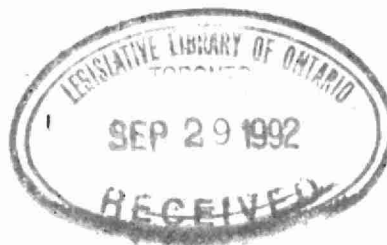
REPORT OF THE TASK FORCE ON THE

ONTARIO ENVIRONMENTAL

BILL OF RIGHTS

JULY, 1992

APPENDICES



**Environment
Environnement**

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TO
REPORT OF THE
TASK FORCE ON THE
ONTARIO ENVIRONMENTAL BILL OF RIGHTS

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THE HONOURABLE RUTH GRIER
MINISTER OF THE ENVIRONMENT

STATEMENT TO THE ONTARIO LEGISLATURE
ANNOUNCING

THE MINISTER'S TASK FORCE
ON THE ONTARIO ENVIRONMENTAL BILL OF RIGHTS

OCTOBER 1, 1991

Mr. Speaker:

I wish to take this opportunity to advise the members of the Legislature about the progress of the Environmental Bill of Rights and the next stage in its development.

My commitment to this bill has long been a matter of record in the Legislature. Our goal is simple but it is of profound importance: to give the citizens of Ontario the right to act to protect the environment.

I am pleased to advise the Legislature today that I have now established the Minister's Task Force on the Ontario Environmental Bill of Rights.

This task force is made up of representatives from business, environmental groups and government. The members will draw upon their expertise and experience to design a draft bill.

The task force is co-chaired by my deputy minister, Gary Posen, and Michael Cochrane, a senior counsel with the Ministry of the Attorney General. The members of the task force are:

- Bob Anderson, Business Council on National Issues
- George Howse, Canadian Manufacturers' Association
- Rick Lindgren, Canadian Environmental Law Association
- John Macnamara, Ontario Chamber of Commerce
- Sally Marin, Ministry of the Environment
- Paul Muldoon, Pollution Probe
- Andrew Roman, law firm of Miller Thompson

Co-chair Michael Cochrane will also meet directly with groups who have a special interest in the proposed bill, such as the Ontario Federation of Labour, the Ontario Federation of Agriculture and the Canadian Bar Association.

Mr. Speaker, I believe this is a balanced and thorough way to proceed in the development of this bill. Because the bill is closely related to many other pieces of provincial legislation, it requires a detailed and careful drafting of its provisions and a complete understanding of its implications.

Everyone on this task force has agreed to work within the framework of some principles which I have indicated are fundamental to this bill. These include:

- the public's right to a healthy environment;
- the enforcement of this right through improved access to the courts and/or tribunals, including an enhanced right to sue polluters;
- increased public participation in environmental decision-making by government;
- increased government responsibility and accountability for the environment;
- greater protection for employees who "blow the whistle" on polluting employers.

Our earlier consultations -- with the public, an interministerial committee and an advisory committee of 26 organizations -- concentrated on a broad discussion of principles. The task force will focus on the specific provisions of a draft bill.

When the draft bill has been completed, there will be further opportunity for public review.

In closing, I'd like to thank the members of the task force and the members of the Legislature, whom I welcome in joining me in delivering this important reform to the citizens of Ontario.

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news release

Ministry
of the
Environment

October 1, 1991

FOR FURTHER INFORMATION:

Michael Cochrane (416) 323-4479
Co-chair, Task Force

Marjan Medved (416) 323-4338
Public Affairs and Communications Services
Branch

NEW TASK FORCE TO PRODUCE DRAFT ENVIRONMENTAL BILL OF RIGHTS

A new task force has been formed to produce a draft Environmental Bill of Rights to serve as the next stage in the development of the bill, Environment Minister Ruth Grier today told the Ontario Legislature.

The Minister's Task Force on the Ontario Environmental Bill of Rights is made up of representatives from environmental groups, the business community and government.

"My commitment to this bill has long been a matter of record in the Legislature. Our goal is simple but it is of profound importance: to give the citizens of Ontario the right to act to protect the environment," Mrs. Grier said.

"The initial consultation -- with the public, an interministerial committee and an advisory committee of 26 organizations -- concentrated on a broad discussion of principles. The task force will now focus on the specific provisions of a draft bill," she said.

The Minister's Task Force on the Ontario Environmental Bill of Rights is co-chaired by Deputy Minister Gary Posen, Ministry of the Environment, and Michael Cochrane, a senior counsel with the Ministry of the Attorney General. Members are:

- Bob Anderson, Business Council on National Issues
- George Howse, Canadian Manufacturers' Association
- Rick Lindgren, Canadian Environmental Law Association

- John Macnamara, Ontario Chamber of Commerce
- Sally Marin, Ministry of the Environment
- Paul Muldoon, Pollution Probe
- Andrew Roman, law firm of Miller Thompson

Co-chair Michael Cochrane will also meet directly with groups that have a special interest in the proposed bill, such as the Ontario Federation of Labour, the Ontario Federation of Agriculture and the Canadian Bar Association.

When the draft bill has been completed, there will be further opportunity for public review.

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* Version française disponible



CLASS PROCEEDINGS IN ONTARIO

Background



Ministry of the Attorney General



CLASS PROCEEDINGS REFORM

Attorney General Ian Scott introduced for First Reading the *Class Proceedings Act, 1990*, which will make available a comprehensive procedure for claims on behalf of numerous persons who have suffered the same loss or injury. The procedure is designed to provide a more efficient and streamlined method for the court to deal with complex litigation affecting the interests of hundreds or even thousands of persons.

BACKGROUND

On June 29, 1989, the Attorney General announced in the Legislature the Government's intention to undertake class action reform.

Formation of Committee

He also announced the formation of the Attorney General's Advisory Committee on Class Action Reform which was to be made up of representatives of business interests, consumers, lawyers and environmentalists. Committee members were:

- Canadian Manufacturers' Association
- Canadian Federation of Independent Business
- Retail Council of Canada
- Consumers' Association of Canada
- Energy Probe
- Canadian Environmental Law Association
- Insurance Bureau of Canada
- Advocates' Society
- Ontario Chamber of Commerce
- Canadian Bar Association of Ontario.

Terms of Reference

The Committee's terms of reference required that it design the legal infrastructure of a class action for Ontario within the following parameters:

1. The consultations would start from the premise that the class action remedy would treat plaintiffs and defendants in a fair and equitable manner, and would impose no unnecessary burdens on the courts.
2. The remedy would include a structured certification procedure in which a judge would screen potential class actions according to specific tests.



3. A rule that all class members who do not specifically opt out would be included in the action.
4. A presumption that notice would be given to class members following certification, unless otherwise ordered by the court, would be included.
5. There would be a controlled contingency fee arrangement.
6. There would be no special role for the Attorney General in class actions.
7. Undistributed awards would be returned to the defendant following the expiry of the relevant limitation period except with respect to environmental cases which would be given further consideration by the Advisory Committee.
8. The new class action remedy would apply in all types of claims and that balanced court rules and procedures should apply to this unique remedy. In particular, it would be applicable in environmental litigation and in consumer litigation.
9. The Ministries of the Environment and Consumer and Commercial Relations, which have been considering introducing class action remedies in their legislation, would contribute their expertise, but would leave the creation of a class action remedy to the Attorney General's consultation process while its work was ongoing.

The Committee delivered a unanimous report to the Attorney General in February of 1990 recommending a specific design for the procedure and its method of delivery to litigants, the courts and the public.

The Committee has approved the *Class Proceedings Act, 1990*, as introduced today as being consistent with its Report to the Attorney General.

**The Push for
Class
Proceedings
Reform**

The impetus for reform of this area has come from a number of sources:

- The Supreme Court of Canada in *General Motors v Naken* (1982) noted the inadequacy of the existing Rule 12 (then R.75) for meaningful class actions. The existing rule does not provide the court with sufficient guidance for managing complex litigation.



- The Ontario Law Reform Commission published its "Report on Class Actions" in 1982 which recommended a new comprehensive procedure.
- The Ministry of the Attorney General hosted the "Access to Justice" Conference in June of 1988 in Toronto. Participants called for a new class action procedure as a way of increasing access to the justice system.
- The Uniform Law Conference of Canada at its August, 1988 meeting in Toronto also approved in principle class action reform along certain specific lines.
- In January of 1989 the Alberta Committee on Fair Dealing in Consumer Savings and Investments published its Report entitled, "A Blueprint for Fairness". The Committee recommended that consumers have a civil right of action on a class basis, allowing government to participate, where consumers suffer losses due to breach of the proposed "Consumer Savings and Investment Information Act".
- Quebec has had class actions available to litigants for over a decade.
- The United States has had class actions available to litigants at both the state and federal level for over twenty five years.



THE CLASS PROCEEDINGS ACT, 1990

The bill proposes the following procedure:

- Class proceedings may be initiated in three ways:
 - a person may commence a proceeding on behalf of a class
 - a defendant may ask that two or more lawsuits against it be classed in to one
 - any party to lawsuits against defendants may ask that the defendants be classed together to defend as a group.
- The court will only order the parties into a class if the claim meets a test provided in the Act.
- The test requires that there be:
 - a cause of action
 - an identifiable class
 - common issues
 - that the procedure be the preferable way of resolving the issues
 - that there be a representative for the class who will fairly and adequately represent the class in the litigation.
- If a person does not wish to be in the class proceeding they may exclude themselves (opt out), otherwise they will be presumed to participate in the claim.
- The representative for the class must ensure that class members obtain notice of the proceeding.
- The court has wide powers to control the proceeding and ensure it is conducted fairly and expeditiously.
- Special provision has been made for the use of statistical and sampling evidence.
- The court will have the power in certain circumstances to give aggregate judgments without proof from individual class members.
- The court will have wide discretion in providing for distribution of judgments.
- All settlements, abandonments and discontinuances of class proceedings are subject to court approval.



- All fees and disbursement arrangements between lawyers and representatives are subject to approval by the court.
- Lawyers will be permitted to take class proceedings on contingency of success with respect to their fee. A method of calculating such a fee has been provided for the court.
- Complementary amendments to the *Law Society Act* will permit the Law Foundation of Ontario to endow a separate account to be known as the Class Proceedings Fund.
- The account will receive over two years \$500,000 from the Law Foundation.
- Representative plaintiffs can apply to the Fund for financial assistance with disbursements, the cost of notice to the class and experts' reports. The Fund will also indemnify the representative plaintiff for adverse costs awards.
- The Cost Proceedings Fund will be evaluated over a three year period.

For further information contact:

**Ministry of the Attorney General
Policy Development Division
720 Bay Street - 7th Floor
Toronto, Ontario
M5G 2K1**



NEWS RELEASE COMMUNIQUE

Ministry of
the Attorney
General

Ministère
du Procureur
général

CLASS PROCEEDINGS ACT INTRODUCED BY ATTORNEY GENERAL

DECEMBER 17, 1990

TORONTO -- Attorney General Howard Hampton introduced legislation today which will support the government's plans to develop an environmental bill of rights and provide another important avenue of access to justice in Ontario. An advisory committee on the law of Standing has also been created to examine the basis on which individuals have access to the courts when raising important issues of public interest.

The Class Proceedings Act, 1990, which adopts the consensus model developed by an advisory committee and which was introduced in the legislature by the previous provincial government, will allow numerous individuals who have suffered a common wrong to seek redress in one law suit.

"I am pleased to introduce this legislation because it forms an important part of this government's larger strategy, to provide a procedure to assist in redressing environmental loss, among other types of widespread harm or injury," said Mr. Hampton.

"The advisory committee on the law of Standing will also provide valuable recommendations on increasing access to the courts," added Mr. Hampton. "The membership of the committee is representative of the primary interests that would be affected by a reformed law of Standing." Committee members include the Canadian Manufacturers' Association, Canadian Bar Association-Ontario, Canadian Environmental Law Association and the Legal Education Action Fund.

The committee is being chaired by Ann Merritt, Counsel, Policy Development Division of the Ministry of the Attorney General, and will begin meeting this week.

The Class Proceedings Act, 1990 is designed to treat plaintiffs and defendants in a fair and equitable manner, without imposing unnecessary burdens on the courts. The highlights of The Class Proceedings Act, 1990 are:

- * The class proceeding will include a step in which a judge will screen or certify potential class proceedings according to a specific test;

(over)

- * Members of the class who do not wish to participate in the class proceedings will have the opportunity to exclude themselves, or opt out, of the proceeding;
- * The representative plaintiff will be required to ensure that the class members obtain notice of the proceeding;
- * Once certified by the court the proceeding would continue in a manner similar to other civil litigation, but with some significant differences, namely: one judge will hear all motions up to the trial; the court will have the ability to make aggregate judgments in cases where the only issue is the assessment of damages for many individuals; and, the court will have flexibility in the method by which a judgment can be distributed to class members.
- * Plaintiffs will be able to enter into special fee arrangements with their lawyers, including modified contingency fees which will be subject to the supervision of the court.

Through complementary amendments to the Law Society Act, the Law Foundation of Ontario will endow a Class Proceedings Fund in the amount of \$500,000. The Fund will be used to assist plaintiffs in class proceedings with disbursements and costs awards.

CONTACTS:

Rosemary Hnatiuk
Minister's Office
(416) 326-4423



NEWS RELEASE COMMUNIQUE

Appendix III

Ministry of
the Attorney
General

Ministère
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général

EXTENSION OF INTERVENOR FUNDING PROJECT ACT ANNOUNCED

MARCH 25, 1992

TORONTO – Attorney General Howard Hampton, Environment Minister Ruth Grier and Energy Minister (Acting) Brian Charlton announced today that a pilot project established to provide funding to public interest intervenors has been continued.

"The Government of Ontario is pleased to be able to extend the Intervenor Funding Project for four years. The project has played an important role in increasing public access to administrative tribunals and ensuring public input in the decision making process," said Mr. Hampton.

The Intervenor Funding Project Act was proclaimed on April 1, 1989 as a three-year pilot project. Under this Act, organizations likely to benefit financially from a decision by the Environmental Assessment Board or the Ontario Energy Board provide funding to public interest intervenors at hearings.

"The Intervenor Funding Project Act has been valuable in ensuring that environmental concerns are fairly represented at Environmental Assessment Board hearings," said Environment Minister Ruth Grier. "Requiring project proponents to provide funds needed by public interest intervenors has been a real improvement over the previous ad hoc process of the provincial government granting such funds."

Over the past three years, the Act has provided groups with the financial means to present their cases to boards reviewing such proposals as municipal landfills, electric power generation and changes in gas utility rates.

The decision to continue the legislation was made after completion of an independent evaluation of the Act. This evaluation, a joint effort by the Ministry of the Attorney General, the Ministry of the Environment and the Ministry of Energy, was carried out by a consulting team headed by Professors W.A. Bogart and Marcia Valiante, both of the Faculty of Law of the University of Windsor. The evaluation report shows broad support for the objectives of the legislation. The report is being printed and will be available early this spring.

The continuation of the legislation will allow time for the government to review and consider the recommendations contained in the evaluation report. After consultation, the government will develop proposals for permanent legislation. It is hoped that new legislation will be tabled and passed well before the end of the four-year extension.

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Contact: Communications Branch
(416) 326-2200

Rosemary Hnatiuk
Minister's Office
(416) 326-4423

APPENDIX IV

A GLOSSARY OF SOME COMMON TERMS AND EXPRESSIONS

"abatement" refers to methods to mitigate the contamination or degradation a particular activity may be having on the environment. Often, abatement measures are voluntarily adopted or the ministry, through the imposition of an administrative order, may compel a person to institute specific abatement measures in order to lessen the undertaking's impact on the environment.

"Alternative Dispute Resolution (ADR)" refers to a set of dispute resolution mechanisms other than traditional adversarial means such as a court of law. It should be viewed collectively as a variety of voluntary, interactive approaches that allow disputing parties to meet face to face in an effort to reach a mutually acceptable resolution. ADR includes negotiation, mediation, arbitration, and other similar forms of dispute resolution. Often, ADR may also be employed as a way of scoping the issues prior to an adversarial hearing.

"air" means open air not enclosed in a building, structure, machine, chimney, stack or flue.

"Class Environmental Assessment (Class EA)" refers to a process that applies the Environmental Assessment Act to projects that are similar in nature, occur frequently, are limited in scale and have only minor and generally predictable effects on the environment. The Ministry of the Environment felt that compelling the proponent to meet the requirements of the EAA for such undertakings would be too onerous. Therefore, such projects are grouped together into a class EA process, so that each process is not individually subject to the requirements of the Act. The Class EA process starts with the production of a parent class EA document that describes a procedure for planning and implementing projects within the class. That document is approved through the individual EA review and approval process, as a result of which the procedure is authorized. Examples of class EA's include improvements in existing water works, sewage works and highways.

"contaminant" is defined as a solid, gas, liquid, odour, heat, sound, vibration, radiation, or combination of any of these, resulting directly or indirectly from human activities, which may cause injury to humans, animals, flora, or fauna, under the Environmental Protection Act.

"discretionary hearing" means a public hearing that may be held at the discretion of the responsible Minister under a prescribed Act.

"EAA" means Environmental Assessment Act.

"EBR" means Environmental Bill of Rights.

"ecological system" means ecosystem.

"ecosystem" is a generic term for a system that includes a community of organisms and their interactions with the environment.

"environment" means the air, water, land, plant life, animal life, and ecological systems of Ontario.

"Environmental Assessment Act (EAA)" provides for the assessment of any proposed major undertaking --government, municipal or private-- at the very earliest stages so that it may be altered or even cancelled if it is found to be environmentally unacceptable. The Act also provides for public participation in the decision-making process. It is being implemented in stages, applying first to major provincial undertakings. Specific private projects which involve significant environmental effects may be designated for assessment.

"Environmental Assessment Advisory Committee (EAAC)" is a body whose purpose is to offer advice to the Minister of the Environment with respect to the operation of the Environmental Assessment Act. For instance, the Minister may ask EAAC for advice on whether a specific undertaking should be designated under the Act for approval. Currently, EAAC is in the process of finalizing a package of reforms to the EAA which are meant to streamline environmental assessment and involve the public at earlier stages of the planning process.

"environmental decision-making" are decisions which the Provincial Government makes that have, or may potentially have, a significant impact on the environment. These decisions can come in the form of regulations, policies, or instruments.

"Environmental Protection Act (EPA)" is a comprehensive regulatory scheme covering all types of pollution, forbidding the discharge of any contaminant into the natural environment in amounts, concentrations or levels exceeding those prescribed by regulation.

"Freedom of Information and Protection of Privacy Act (FOI)" was established in 1987. The purpose of this statute is to provide the public with a right of access to information that is under the control of a governmental institution. An institution is only allowed to deny access to a particular record of information if that record is protected by one of the exemptions listed in the Act. If the person applying for the information is dissatisfied with the lack of disclosure, he/she may appeal an institution's decision to the Information and Privacy Commissioner.

"groundwater" is water occurring below the soil surface, and that is held in the soil itself; subsurface water, that is, water stored in the pores, cracks, and crevices in the ground below the water table; water occurring in the zone of saturation below the earth's surface.

"instrument" means any document of legal effect issued under an Act and includes a permit, license, approval, authorization, direction, or order issued under a prescribed Act, but does not include a regulation.

"land" includes wetland and land covered by water but does not include land enclosed in a building;

"Municipal/Industrial Strategy for Abatement (MISA)" was started in 1986. Its goal is the virtual elimination of toxic contaminants in municipal and industrial discharges into the Province's waterways. The programme targets ten sectors and is comprised of two phases. In the first phase which was recently completed, effluent monitoring regulations were developed which required dischargers to monitor their effluent at their source-point at regular intervals. The goal of the second phase is to develop and implement effluent limits for each of the nine industrial and municipal

sectors, on a sector-by-sector basis, using data collected during the monitoring phase. These limits are to be based on the "best available technology economically achievable".

"natural resources" means resources.

"Ontario Water Resources Act (OWRA)": is an Act which gives the Ontario Ministry of the Environment extensive powers to regulate water supply, sewage disposal and the control of water pollution. Under the Act, any discharge into a body of water, on its shore or in any place that may impair the quality of the water, is an offence.

"Pesticides Act" is an Act which restricts the storage, distribution, sale and use of pesticides. The Ministry of the Environment examines and licenses professional exterminators and maintains a classification system to ensure that hazardous chemical pesticides are not handled or used by unqualified persons.

"policy" is any major program, plan, objective, or guideline of government.

"prescribed" means set out in the regulations under the proposed Environmental Bill of Rights.

"public nuisance" is an inconvenience or interference caused to the public generally, or part of the public, which does not affect the interests of individuals in land. Unlike private nuisance, public nuisance was originally a crime and was only actionable at the will of the Attorney General. Eventually, it was recognized by the courts as a civil wrong for which a person could recover damages.

"public nuisance rule" is a rule which prevents persons from bringing an action to court in public nuisance unless they receive consent from the Attorney General to proceed, or unless they could demonstrate that they suffered a harm that distinguishes them in kind or degree from the rest of the affected community.

"water" means any body of water including rivers, lakes, streams, and groundwater.

"wetland" means land, that is,

(a) seasonally or permanently covered by shallow water, or

(b) in respect of which the water table is close to or at the surface,

so that the presence of abundant water has caused the formation of hydric soils and has favoured the dominance of either hydrophytic or water tolerant plants.

"whistleblowing" is the act of an employee reporting to the Ministry of Environment or other ministries, a breach or an anticipated breach of an environmental law in the workplace.

A SUMMARY OF RECOMMENDATIONS

Chapter 3(A)

Introduction: Preamble, Purposes and Environmental Values

The Task Force recommends that:

- 1 The preamble to the Environmental Bill of Rights acknowledge that the public and government must strive individually and collectively to achieve the common goal of protecting our natural environment but that government has the primary role. (preamble)*
- 2 Environment be defined to mean the air, water, land, plant life, animal life and ecological systems of Ontario, and that*
 - "air" be defined to mean open air, not enclosed in a building, structure, machine, chimney, stack or flue,*
 - "land" be defined as including wetland and land covered by water but not land enclosed in a building,*
 - "water" be defined to include ground water.(s.1)*
- 3 The purposes of the Environmental Bill of Rights be:*
 - to protect, conserve and, where reasonable, restore the integrity of the environment; (s.2(1)(a))*
 - to provide sustainability of the environment for the benefit of present and future generations; (s.2(1)(b))*
 - to protect the right of present and future generations to a healthful environment; (s.2(1)(a))*
 - the prevention, reduction and elimination of the use, generation and release of pollutants that are an unreasonable threat to the integrity of the environment; (s.2(2)1)*
 - the protection and conservation of biological, ecological and genetic diversity; (s.2(2)2)*
 - the protection and conservation of natural resources, including plant life, animal life and ecological systems;(s.2(2)3)*
 - the encouragement of the wise management of our natural resources, including plant life, animal life and ecological systems; (s.2(2)4) and*
 - the identification, protection and conservation of ecologically sensitive areas or processes. (s.2(2)5)*

- 4 *The purposes of the Environmental Bill of Rights be achieved through four primary methods:*
 - (a) *providing the means by which residents of Ontario may participate in the making of environmentally significant decisions by the Government of Ontario;*
 - (b) *providing increased accountability of the Government of Ontario for its environmental decision-making;*
 - (c) *increasing access to the courts by residents of Ontario for protection of the environment; and*
 - (d) *enhancing the protection for employees who take action in respect of environmental harm. (s.2(3)(a) to (d))*
- 5 *Each Ministry in the government of Ontario that makes decisions that affect or may affect the environment should develop a Statement of Environmental Values. (s.5)*
- 6 *The Statement of Environmental Values be developed in consultation with the public. (s.6)*
- 7 *The Statement of Environmental Values be a concise statement of the integration of the purposes of the Environmental Bill of Rights with the social, economic, scientific and other considerations already being applied by that ministry in environmental decision-making. (s.5(a) & (b))*
- 8 *The Statements of Environmental Values be used by the Ministries to guide future environmental decision-making. (s.9)*
- 9 *The Statements of Environmental Values be developed as soon as possible.*

Chapter 3(B)(i)

The Environmental Registry System

The Task Force recommends that:

- 10 *The government establish an Environmental Registry System for significant environmental decisions being made by government. (s.10)*
- 11 *It be used by all Ministries which make significant environmental decisions and be phased in to apply to Ministry of the Environment, Ministry of Natural Resources, Ministry of Northern Development & Mines, Ministry of Agriculture and Food, and others as determined by Cabinet.*
- 12 *The Environmental Registry System be used to provide the public with notice of proposed policies, regulations and instruments that may have a significant effect on the environment and with timely opportunity to comment on the proposal. (s.11)*
- 13 *The Environmental Registry System provide notice of the decision made with respect to the proposal after the public has had an opportunity to comment. (s.11)*

- 14 *Significant proposed policies, regulations and instruments be handled through the Environmental Registry System in three separate components - a Policy Component, a Regulation Component and an Instrument Component.*
- 15 *Each component of the Environmental Registry System establish rules for providing minimum levels of notice (30 days) and timely opportunities to comment, as well as notice of the decision made. (s. 76(1)(i) to (l))*
- 16 *The Environmental Registry System apply to proposals for policies, regulations and instruments made after the Environmental Bill of Rights is in force. (ss. 13, 14, 15) It should not be used to record decisions made before the Environmental Bill of Rights comes into force.*
- 17 *The Environmental Registry System should establish the minimum standard of public consultation on a significant environmental decision and, over time, all significant environmental decision-making processes in government should meet at least that minimum standard.*
- 18 *The minimum requirements for public participation in an environmentally significant decision be notice of the proposed decision, a 30-day period for comment by the public and, where comments were received, the publication of the decision and the reasons for it.*
- 19 *Proposed policies placed on the Environmental Registry System for public comment include policies for any major program, plan, objective or guideline of the government with respect to the environment that may have a significant environmental impact and that the Minister responsible for that policy identifies as warranting public consultation. (s. 13)*
- 20 *Proposed regulations placed on the Environmental Registry System for public comment should include regulations made under Acts listed in the regulations under the Environmental Bill of Rights that would have a significant environmental impact. (s. 14)*
- 21 *The Minister have discretion to increase the length of notice and to establish methods of obtaining public comment for policies and regulations.*
- 22 *Proposed instruments placed on the Environmental Registry System for public comment include any document of legal effect issued under an Act and any licence, permit, approval, authorization, control order, or other legal authorization, and is made under an Act listed in the regulations made pursuant to the Environmental Bill of Rights. (s. 1)*
- 23 *Significant environmental instruments be classified into four Classes (I to IV) which would reflect gradients of notice and opportunity to comment related to their significance. (s. 76(1)(i) to (m))*

- 24 *The Environmental Registry System permit multi-media approvals, fast-track approvals and the use of alternate dispute resolution. (s.76(1)(n) & (o))*
- 25 *The classification scheme for instruments apply over time, to all Ministries which make significant environmental decisions.*
- 26 *The Environmental Registry System contemplate exceptions to the requirements to consult including:*
- *emergency situations; (s.16(1)(a))*
 - *situations where public consultation on a significant environmental decision has been or will be achieved through an equivalent process; (s.17) or*
 - *situations where the instrument implements a decision which has been made by an independent tribunal or pursuant to the Environmental Assessment Act. (s.18)*
- 27 *Appeals to a tribunal by members of the public of Class I and II instruments be permitted in certain circumstances. (s.76(1)(p))*
- 28 *Class IV instruments be subject to review by the Divisional Court of Ontario or as otherwise provided. (s.76(1)(p))*
- 29 *The Environmental Registry System be designed to scope the consideration of issues at each step of public comment.*
- 30 *Any resident of Ontario be able to make an application to the court for a declaration that a Minister failed to comply with the Environmental Registry System requirements with respect to a proposal for an instrument within 15 days of notice of implementation of the proposal. (s.74)(2)(3))*
- 31 *The Environmental Registry System be implemented in a way that integrates the Freedom of Information Act.*

Chapter 3(B)(ii)

The Office of the Environmental Commissioner

The Task Force recommends that:

- 32 *The government establish an Office of the Environmental Commissioner of Ontario which should have responsibility for objective oversight and measurement of progress in implementing the Environmental Bill of Rights. (s.22(1))*
- 33 *The Office of the Environmental Commissioner be accountable directly to the Legislature and be a non-partisan appointment. (s.22(2))*

- 34 *The Office of the Environmental Commissioner also monitor and report on the use of the Statements of Environmental Values by various Ministries. (s.23(b)(i))*
- 35 *The Office of the Environmental Commissioner have responsibilities which include:*
- (i) providing the key ministries which make environmental decisions with an opportunity to obtain guidance or advice on proposed environmental policies and regulations;*
 - (ii) providing ministries which make environmental decisions with guidance on the development and implementation of their individual Statements of Environmental Values; (s.23(b)(ii))*
 - (iii) providing education and guidance to those same ministries and their officials in understanding how to practically implement the Statements of Environmental Values in their day-to-day decision making and how to develop self-auditing procedures with respect to environmental decisions; (s.23(a) & (c))*
 - (iv) providing periodic analysis and comment about whether environmental policies, regulations and instruments are actually being infused with the Statement of Environmental Values and, if not, how to ensure that they will in future; (s.23(b)(ii))*
 - (v) receiving, forwarding and monitoring the Applications for Investigation, the number of requests, their disposition, and user satisfaction with the process; (s.23(f))*
 - (vi) receiving, forwarding and monitoring the Applications for Review of government action, both with respect to the review of existing policies, regulations and instruments, as well as with respect to public requests for regulation of the environment where no regulations exist; (The number and disposition of requests should be monitored, as well as user satisfaction with the process.) (s.32(f))*
 - (vii) monitoring the use of the new statutory cause of action for environmental harm to a public resource; (s.23(f))*
 - (viii) monitoring the use of protections for employees who report environmental harm in the workplace and the number and disposition of complaints to the Ontario Labour Relations Board; (s.23(g))*
 - (ix) providing general oversight in monitoring of implementation of the Environmental Bill of Rights during phase-in transition; (s.23(a))*
 - (x) monitoring individual ministry use of the Environmental Registry and the exercise of ministerial discretion in placing policies, regulations and instruments on the Registry for public comment, the exercise of emergency powers and other related decisions. (s.23(d) & (e))*

- 36 *The Office of the Environmental Commissioner publish biennial reports about government performance, Ministry by Ministry, with respect to the Environmental Bill of Rights. This report should provide an objective foundation from which accountability would flow. (s.24)*
- 37 *Judicial review of a Ministry's application of the Statement of Environmental Values should not be permitted. (s.74(1))*

Chapter 3(B)(iii)

Applications for Investigation of Environmental Harm

The Task Force recommends that:

- 38 *There be a standardized method by which two residents of Ontario who are 18 years of age or older and believe that a contravention of a prescribed Act regulation or instrument has occurred or will occur may bring their sworn Application for an Investigation to the attention of the appropriate Ministry or Ministries. (Part V, s.32)*
- 39 *The Application for Investigation of a contravention be made to the Environmental Commissioner who should forward the application to the appropriate Ministry within 30 days. (s.33)*
- 40 *The Environmental Commissioner should use a standardized Affidavit form that records:*
- (a) the names and addresses of the applicants;*
 - (b) a statement of the nature of the alleged contravention;*
 - (c) the names and addresses of each person alleged to have been involved in the commission of the contravention, to the extent that this information is available to the applicants;*
 - (d) a summary of the evidence supporting the allegations of the applicants;*
 - (e) the names and addresses of witnesses to the alleged contravention, together with a summary of the evidence they might give, to the extent that this information is available to the applicants;*
 - (f) a copy of any document and a description of any material that the applicants believe should be considered in the investigation; and*
 - (g) details of any previous contacts with the Office of the Environmental Commissioner or any Ministry regarding the alleged contravention. (s.32(2))*
- 41 *A Minister who receives an Application for Investigation of a contravention from the Environmental Commissioner acknowledge receipt within 30 days to the applicants. (s.34)*

- 42 *A Minister investigate all Applications for Investigation of a contravention unless:*
- (a) *the application is frivolous or vexatious,*
 - (b) *the alleged contravention is not serious enough to warrant an investigation, or*
 - (c) *the alleged contravention is not likely to cause harm to the environment. (s.35)*
- 43 *Where a Minister decides not to investigate he/she advise the applicants, the person alleged to have committed the contravention, and the Environmental Commissioner within 120 days of the Minister's receipt of the Application for Investigation of contravention. (s.36(1)(2))*
- 44 *Where the Minister investigates the Application for Investigation of contravention he/she complete the investigation within 6 months of receipt or such other time as he/she advises the applicants in writing. (s.37(1)(2))*
- 45 *Within 30 days of completing an investigation the Ministry advise the applicants, those alleged to have committed the contravention and the Environmental Commissioner, of the outcome, steps taken or steps intended to be taken. (s.38)*
- 46 *The Environmental Commissioner be prepared to assist residents with the completion of the standardized form to ensure accurate allegations with respect to prescribed Acts and other aspects of alleged contraventions.*

Chapter 3(B)(iv)

Applications for Review of Policies, Regulations and Instruments

The Task Force recommends that:

- 47 *There be a standardized method by which any two residents of Ontario who are eighteen years of age or older who believe that an existing policy, Act, regulation or instrument should be amended, replaced, repealed or revoked in order to protect the environment be able to apply to the Environmental Commissioner for a review of that policy, Act, regulation or instrument by the appropriate Minister.*
- 48 *Any two residents of Ontario who are eighteen years of age or older and who believe that a new policy, Act, regulation or instrument should be adopted, passed, made or issued in order to protect the environment, be able to apply to the Environmental Commissioner for a review of the need for a new policy, Act, regulation or instrument by the appropriate Minister. (s.25(2))*
- 49 *The Environmental Commissioner supply a standardized form that enables the applicants to provide the following information:*
- (a) *their names and addresses,*

- (b) *an explanation of why the applicants believe the review applied for should be undertaken in order to protect the environment; and*
- (c) *a summary of any scientific or evidence supporting the applicants' belief that the review applied for should be undertaken in order to protect the environment (s.25(3)).*
- 50 *The form provided by the Environmental Commissioner also clearly identify the policy, Act, regulation or instrument in respect of which the review is sought (s.25(4)).*
- 51 *The Environmental Commissioner, within 30 days, refer the application for review to the Minister(s) responsible for the matters raised in the application (s.26).*
- 52 *The Minister who receives an application for review from the Environmental Commissioner acknowledge receipt of the application directly to the applicants within 30 days of receiving the application from the Environmental Commissioner. (s.27)*
- 53 *The Minister consider applications in a preliminary way to determine whether the public interest warrants the review. (s.28)*
- 54 *In determining whether the public interest warrants a review, the Minister consider the public interest in not disturbing a decision made in the five years preceding the date of the application if the decision was made in accordance with the Environmental Bill of Rights or a substantially equivalent process. (s.28(2))*
- 55 *In determining whether the public interest warrants a review the Minister consider:*
 - (a) *the Ministry Statement of Environmental Values;*
 - (b) *any social, economic or scientific evidence that the Minister considers relevant;*
 - (c) *the potential for harm to the environment if the review applied for is not undertaken; and*
 - (d) *any other matter that the Minister considers relevant.(s. 28(3)).*
- 56 *When considering the public interest with respect to the review of an existing policy, Act, regulation or instrument, the Minister also consider:*
 - (a) *the extent to which members of the public had an opportunity to participate in the development of the policy, Act, regulation or instrument in respect of which a review is sought; and*
 - (b) *how recently the policy, Act, regulation or instrument was made, passed, or issued. (s.28(4))*
- 57 *The Minister should inform the applicants, the Environmental Commissioner and any other person the Minister considers ought to get notice in writing within 120 days of receiving the application if he/she does not intend to conduct the review (s.29).*

- 58 *Within 30 days of completing a review, the Minister should give the applicants written notice of the outcome of the review. This notice should include a statement of what steps, if any, the Minister has taken or proposes to take as a result of the review (s.30).*
- 59 *The notice of completion of the review be sent to the Environmental Commissioner. (s.30)*
- 60 *The Environmental Commissioner exercise the same functions and duties with respect to applications for review as with respect to applications for investigation of contraventions. These duties should include monitoring the number of applications for review, their disposition and the exercise of ministerial discretion with respect to the undertaking of a review. (s.23(f))*
- 61 *Ministers who receive numerous applications for review be able to prioritize their review of any existing policies, regulations and instruments.*
- 62 *If requested by the public, existing guidelines used to issue significant environmental instruments could be placed on the Environmental Registry for an opportunity to obtain public comment an to determine the form and content of such guidelines. Guidelines that can be in the form of regulations should be converted into regulations wherever reasonable.*

Chapter 3(C)

Access to the Courts for Protection of the Environment: Public Nuisance

The Task Force recommends that:

- 63 *No person who has suffered or may suffer a direct economic loss or direct personal injury as a result of a public nuisance that caused harm to the environment should be barred from bringing an action in respect of the loss only because the person has suffered or may suffer a direct economic loss or direct personal injury of the same kind or to the same degree as other persons. (s.58)*
- 64 *The reform, once implemented, be monitored closely to evaluate its effect on access to justice for environmental claims. Further reform of the law of standing and public nuisance should await the outcome of that analysis.*
- 65 *The Attorney General's permission no longer be required for public nuisance claims arising from environmental harm to enter the justice system.*

Chapter 3(C)

Access to the Courts for Protection of the Environment:

New Statutory Cause of Action for Public Resource Protection

The Task Force recommends that:

- 66 *A new statutory cause of action for the protection of public resources from significant environmental harm be created. (s.41)*
- 67 *Any resident of Ontario be able to commence such a proceeding where significant environmental harm to a public resource is occurring as a result of non-compliance with an Act, regulation or instrument prescribed in the Environmental Bill of Rights, or where such harm is imminent. (s.41)*
- 68 *A pre-condition to such an action by a resident be an Application for an Investigation of the alleged contravention by the resident and an unreasonable or untimely response by the government. (s.41(2))*
- 69 *There be an exception for emergency situations where significant harm or serious risk of harm to a public resource may occur. (s.41(4))*
- 70 *The cause of action not be retroactive and apply only in respect of harm resulting from contraventions occurring after the Act comes into force. (s.40)*
- 71 *The onus of proof be on the plaintiff and be on a balance of probabilities. (s.41(6))*
- 72 *In addition to any other common law defences, a defendant have available the defences of compliance with the Act, regulation or instrument, due diligence and reasonable interpretation of the instrument in question. (s.42)*
- 73 *The Attorney General be served with the Statement of Claim, and should have all the rights of a party in the action. (s.43)*
- 74 *Notice of the action be ordered by the court and placed on the Environmental Registry. (s.44(1))*
- 75 *The procedure provide for notice to the public to enable the court to provide fair and adequate representation of the private and public interests at stake and their participation. (s.45)*
- 76 *The court have the power to stay or dismiss an action where to do so would be in the public interest having regard to environmental, economic and social concerns. (s.47(1) & (2))*
- 77 *When considering a stay or dismissal, the courts consider whether the issues raised in the proceeding would be better resolved in another process or whether there is an adequate government plan to address the public interest issues. (s.47(2))*

- 78 *The court have the power to order an injunction, the negotiation of a plan to restore the public resource, declaratory relief, and costs. (s.49(1))*
- 79 *A restoration plan in respect of harm to a public resource from a contravention, may provide for, to the extent that to do so is reasonable, practical and ecologically sound:*
- (a) the prevention, diminution or elimination of the harm;*
 - (b) the restoration of all forms of life, physical conditions, the natural environment and other things associated with the public resource; and*
 - (c) the restoration of all uses, including enjoyment, of the public resource affected by the contravention. (s.51(2))*
- 80 *Where a defendant concurs, the court order may include research into and development of technologies to prevent, decrease or eliminate harm to the environment; community, education or health programs; and the transfer of property by the defendant so that the property becomes a public resource. (s.51(3))*
- 81 *A restoration plan, where appropriate, contemplate monitoring of its progress, and the need to "fine tune" it over time. (s.51(5))*
- 82 *A restoration plan include a provision for the payment of money only where the Attorney General and defendant consent, and in such a case the money should be paid to the Treasurer of Ontario and used only for restoration of the public resource. (s.51(7))*
- 83 *The court have the power to make ancillary orders to facilitate creation of the negotiation process and plan. (s.52)*
- 84 *The court approve any negotiated restoration plan in order to protect the public interest. (s.53(1))*
- 85 *The court have the power to develop a restoration plan where the parties cannot agree to a plan. (s.54)*
- 86 *Res judicata and issue estoppel should apply to this cause of action. (s.55)*
- 87 *The court have discretion with respect to costs and when exercising its discretion should consider special circumstances such as whether the action is a test case or raised a novel point. (s.56)*
- 88 *The delivery of a notice of appeal should not stay the operation of an order unless the appeal court grants a stay, on terms, if necessary. (s.57)*
- 89 *The new cause of action be subject to a two-year limitation period.*
- 90 *The new cause of action not be subject to an ultimate limitation period.*

- 91 *The action be integrated, if possible, with the Attorney General's proposed General Limitations Act.*
- 92 *The bench and bar and government officials receive education about the new cause of action and its operation.*
- 93 *The Environmental Commissioner, as a part of his/her duties, monitor the new cause of action and, in particular, its relationship to the Application for Investigation. (s.23(d) & (e))*

Chapter 3(D)

Increased Security for Workers who Report Environmental Harm

The Task Force recommends that:

- 94 *The protection contained in section 174 of the Environmental Protection Act, RSO, 1990, be extended to the list of environmental Acts prescribed by the Environmental Bill of Rights. (Part VII)*
- 95 *The activities of employees that may be undertaken and protected from dismissal, discipline, penalty, coercion, and so on, include activities now proposed in the Environmental Bill of Rights such as requesting a review of government action or requesting an investigation. (s.61(3))*
- 96 *The current relationship between the protection for employees who report environmental harm in the workplace and the Ontario Labour Relations Board be maintained, with the Board having the same duties and powers. (ss.62-72)*
- 97 *The Ontario Labour Relations Board and the Environmental Commissioner develop an administrative practice through which the Board can notify the Environmental Commissioner of complaints to the Board concerning employee reports of environmental harm in the workplace for which there was dismissal or other punitive measures taken. (s.23(g))*
- 98 *The Ministry of the Environment and the Ministry of Labour should consider the possibility of bringing together labour, business, government, environmentalists and other interested parties to analyze the issues of a right to refuse work that may harm the environment and the need for joint employer/employee committees in the workplace.*

Chapter 5

Dealing with Transition: Phasing in the Environmental Bill of Rights and Reviewing its Implementation

The Task Force recommends that:

- 99 The Environmental Bill of Rights be implemented in full over a reasonable period of time through the effective use of a phased-in transition.*
- 100 The Government establish an Environmental Bill of Rights Implementation Team to ensure full implementation and effective integration of the Environmental Bill of Rights into Ontario's existing laws and planned reforms.*
- 101 The monitoring of the implementation of the Environmental Bill of Rights by the Environmental Commissioner and specific comments in his/her biennial Report about the progress of implementation.*
- 102 Ministers affected by the Environmental Bill of Rights should respond to the Environmental Commissioner's Report once it is delivered to the Legislature and account for their progress in implementation.*

Acknowledgements

The unanimous recommendations contained in this report and the proposed Ontario Environmental Bill of Rights were developed because a very talented group of people came together to determine whether a broadly-based consensus on the legislative framework of an Environmental Bill of Rights could be developed. Representatives of business, government and the environmental community discussed, debated, educated and persuaded each other about their respective needs and interests in an Environmental Bill of Rights.

Their work was demanding since their obligations did not only include participating in Task Force meetings, but also involved hundreds of hours of research and discussion in order to be able to understand and evaluate the sometimes complex issues that confronted them. Each representative had a responsibility to liaise with a larger network of constituents to ensure first, that a broader base of opinion reached and influenced the Task Force's deliberations and secondly, to ensure that the Task Force consensus, as it evolved, enjoyed a wide base of support.

The following individuals participated in the Task Force on behalf of their various associations. They tackled the work with enthusiasm, thoughtfulness and a genuine interest in protecting Ontario's environment for present and future generations.

The Task Force was co-chaired by the Deputy Minister of the Environment, Gary Posen (August 1991 to May 15, 1992), Richard Dicerni (since May 15, 1992), and Michael Cochrane, a lawyer in private practice.

The following is a brief profile of each member of the Task Force:

Mr. Richard Dicerni, Co-chair (Deputy Minister of Environment)

Mr. Dicerni was appointed Deputy Minister, Environment, in May 1992. Prior to his appointment, he had been Deputy Secretary to the Cabinet, Federal Provincial Relations Office in Ottawa. He joined the Ontario government after a 20-year career with the federal government where he had held a number of senior positions including Senior Assistant Deputy Minister of Health and Welfare, and Assistant Under Secretary of State. Prior to joining the Secretary of State department in 1981, he worked as an executive officer in various federal departments as well as a ministerial aide. Mr. Dicerni has a BA from the College Ste. Marie, and a Masters in Public Administration from Harvard. He serves on the Board of Directors of ABC Canada, a foundation established to promote literacy.

Mr. Gary S. Posen, Co-chair (Deputy Minister of Environment from October 5, 1987 to May 15, 1992)

Mr. Posen was appointed Deputy Minister, Transportation, in May 1992. Prior to that he was Deputy Minister, Environment, since October 1987. He was previously Deputy Minister of the Ministry of Intergovernmental Affairs. Before his appointment in January of 1984, he was Assistant Secretary, Program Review, for Management Board. From 1978 to 1982 he was the Director of Federal-Provincial Relations Branch for the Ministry of Intergovernmental Affairs, focusing on relations with Quebec and the other regions of Canada, and on constitutional reform. He began his public service career in 1966 with the Department of Treasury and Economics. In 1971 he became Director, Federal-Provincial and Inter-provincial Affairs Secretariat, with the Ministry of Treasury, Economics and Intergovernmental Affairs. He holds a Masters degree from the University of Toronto in Political Science, and a diploma in Russian and East European studies.

Mr. Michael G. Cochrane, Co-chair

When he began as co-chair of this Task Force, Mr. Cochrane was a Senior Crown Counsel with the Ministry of the Attorney General. Called to the bar in 1980, he is currently a lawyer with the law firm of Scott & Aylen. His practice includes civil litigation and the mediation of multi-party disputes. In the past he has chaired the Attorney General's Advisory Committee on Class Action Reform and the Attorney General's Advisory Committee on Mediation in Family Law. He is the author of two texts on family law, and the author of a forthcoming text on class proceedings in Ontario. Prior to joining the Ministry of the Attorney General, he practised civil litigation for five years.

Mr. Robert Anderson (representing Business Council on National Issues)

Mr. Anderson has been General Counsel at Procter & Gamble for many years, and is a Director and is on the Management Committee of his company. He has been a Director of the Canadian Manufacturers' Association, the Ontario Chamber of Commerce and the Children's Aid Society of Metropolitan Toronto, and is currently a Director of Mission Air. He was a member of consultative groups which developed the 1986 Competition Act amendments, the Ontario Class Proceedings Act, the proposed Ontario Fair Marketplace Code and the 1991 Report on Advertising and Marketing Practices for the Competition Bureau. He was called to the Bar from Osgoode Hall in 1960, and received a Master of Laws degree from Osgoode (York) in 1976.

Mr. George Howse (representing Canadian Manufacturers' Association)

Mr. Howse joined the law department of Imperial Oil Limited in 1972 as a tax lawyer. He has held various positions with Imperial Oil including General Counsel and Tax Manager for Esso Resources Canada Limited in Calgary and General Counsel for Esso Petroleum Canada in Toronto. Currently he is Assistant General Counsel - Corporate for Imperial Oil Limited. He is a former director of the Petroleum Law Foundation and a former member of the legal Committee of the Canadian Petroleum Association. He graduated from the University of Toronto in 1963 with a BA (Honours) in Political Science and Economics. He obtained an LLB in 1966 from the University of Toronto Law School. He is a graduate of the Executive Program of the Columbia University School of Business.

Mr. Richard Lindgren (representing Canadian Environmental Law Association)

Mr. Lindgren has been a staff lawyer with the Canadian Environmental Law Association since his call to the bar. At CELA his casework and law reform activities have involved civil, criminal and administrative law, and he has represented citizens' groups in the courts and before statutory tribunals on numerous environmental issues, including wetlands, forestry, land contamination, waste disposal, and air and water pollution. He was a member of the Attorney General's Advisory Committee on Class Action Reform, and is presently a member of the Executive of the Environmental Law Section of the Canadian Bar Association (Ontario), and the Board of the Canadian Institute for Environmental Law and Policy. He teaches environmental law at Trent University and Queen's Faculty of Law.

Mr. John Macnamara (representing Ontario Chamber of Commerce)

Mr. Macnamara joined Dofasco in 1978 and has held various positions in the Commercial Department before joining the Corporate Secretarial Department in 1981. He was a member of the earlier Advisory Group on the Environmental Bill of Rights, and is a member of the Industrial Disease Standards Panel which is constituted under the Workers' Compensation Act. He graduated from McMaster University in 1973 with a B.Sc. in Biology and obtained an M.B.A. from McMaster University in 1978.

Ms Sally Marin (representing the Ministry of the Environment)

Called to the Ontario Bar in 1979, Ms Marin is counsel with the Legal Services Branch of the Ministry of the Environment, specializing in environmental prosecution policy and policy development. Prior to that, she was an Assistant Crown Attorney and later Counsel with the Constitutional Law and Policy Division of the Ministry of the Attorney General. Ms. Marin was a member of the Advisory Committee on the Environmental Bill of Rights and currently chairs the Inter-Ministerial Committee on the Environmental Bill of Rights.

Mr. Paul Muldoon (representing Pollution Probe)

Mr. Muldoon is Counsel for Pollution Probe, a charitable organization devoted to education, research, and advocacy on solutions to the environmental problems facing Canada. He assists in coordinating the organization's law and policy reform and research agendas. He has written a number of books, articles and reports pertaining to a variety of environmental problems, and in particular, toxic water pollution, biotechnology, water conservation and environmental rights. He has graduate degrees in political science and law from McMaster University and McGill University, respectively. Mr. Muldoon sits on a number of advisory committees, such as the Virtual Elimination Task Force and the Science Advisory Board of the International Joint Commission. He is also on the Board of Directors for Great Lakes United. Mr. Muldoon is a research associate with the Canadian Institute for Environmental Law and Policy.

Mr. Andrew J. Roman (as a legal consultant from the law firm of Miller Thomson)

Called to the Ontario Bar in 1973, Mr. Roman has represented and advised a wide variety of public interest groups, corporations and government departments and agencies on matters of environmental law. He has taught law as a sessional lecturer at four law schools, lectures frequently at continuing education sessions and is the author of 30 publications, including two books. He is active in the Canadian Bar Association, and is a member of the Executive of the National Administrative and Environmental Law Sections. He was also a member of the Attorney General's Advisory Committee on Class Actions and the Attorney General's Advisory Committee on Standing Reform. Mr. Roman practices administrative and environmental law with the firm of Miller Thomson.

In addition to the extraordinary contribution made to this Report and draft Environmental Bill of Rights by the individual members of the Task Force, special thanks must also be extended to the following organizations and individuals. While they were not a part of the Task Force and do not necessarily support the recommendations their comments were very valuable as the Task Force's consensus evolved.

Advocates' Society	Terry O'Sullivan, President Eleanore Cronk, 1st Vice President Len Griffiths David Roebuck Chris Paliare
Agricultural Groups Concerned About Resources and the Environment (AgCare)	Jeff Wilson, Chairman Ken Hough, Secretary
Association of Municipalities of Ontario	Noelle Boughton
Canadian Bar Association Ontario	Doug Thomson, Chairman, Environmental Law Section
Commission on Planning and Development Reform in Ontario	John Sewell, Chair George Pensold Toby Vigod
Environmental Appeal Board	John Swaigen, Chair
Ontario Federation of Agriculture	Dona Stewardson, Executive Member Dave Armitage, Policy Analyst, Policy & Research
Ontario Federation of Labour	Duncan MacDonald, Programs Coordinator Glen Buchanan, Member of the Board of Directors Linda Jolley, Director, Health & Safety Mary Morison, Coordinator, Occupational Health Clinics
Ontario Forest Industries Association	Joe Bird, President
Ontario Mining Association	Patrick Reid, President Elizabeth Gardiner
Ontario Round Table on the Environment and the Economy	Rick Findlay, Director
The Sierra Club	Gerda Potzel, Secretary
Temple Emanu-El	Rabbi Bielfeld Barbara Landau and Sy Landau

The Task Force also wishes to acknowledge the work of Mr. Norman Stewart, Vice President, General Counsel and Secretary, Ford Motor Company of Canada Limited, who helped facilitate the creation of the Task Force and who acted as an alternate for the business representatives on the Task Force. He brought a fresh perspective to the Task Force's work, along with his experience as a member of the Attorney General's Advisory Committee on Class Action Reform, the Attorney General's Advisory Committee on the Law of Standing, and the Task Force considering the development of a Fair Marketplace Code for Ontario.

In addition, the Task Force wishes to acknowledge the very thoughtful assistance of Anne Wordsworth, Policy Advisor to Ruth Grier; Steven Shrybman, Senior Policy Advisor, Cabinet Committee on Environmental Policy; and Fred Gloger, Coordinator of Environmental Policy in the Premier's Office.

Marilyn Leitman, Legislative Counsel with the Ministry of the Attorney General, worked to difficult time lines in preparing the enclosed draft Environmental Bill of Rights. Her conversion of the Task Force's wishes into legislative form was achieved efficiently, accurately and with great skill. Her analysis of the Task Force consensus led to a better draft Bill.

Special mention should also be made of the extremely able assistance provided by the Inter-Ministerial Committee on the Environmental Bill of Rights. Its members, who are described on the following pages, responded to the Task Force's needs with creativity and enthusiasm.

The staff of the Ministry of the Environment, in particular Mr. André Castel, provided both logistical support for the Task Force and advice on the Environmental Bill of Rights, they deserve special credit for their assistance with our work.

In particular, the Task Force wishes to acknowledge the work of James Flagal who, while studying for a joint Masters in Environmental Studies/Bachelor of Laws Programme at York University, provided research assistance and key support for Task Force meetings. His enthusiasm for environmental law was contagious.

Little could have been accomplished without the very able work of Suzanne Theriault who, as administrative assistant and secretary to the Co-chairs of the Task Force, made certain that meetings actually took place where and when we said they should. She provided the logistical support important to undertakings such as these that involve intense discussions over a very short period of time. Her coolness under pressure was greatly appreciated.

Finally, the work of Gary Posen, Deputy Minister of Environment and Co-chair of the Task Force until his reassignment as Deputy Minister of the Ministry of Transportation, must be acknowledged. Work on reform of this scale requires marshalling bureaucratic support and financial resources. Gary Posen made sure that both were in supply and his steady hand is evidenced in the progress of the Task Force's work over the last ten months.

To each and every one, a special thanks. Your contribution to the development of the Ontario Environmental Bill of Rights has been invaluable.

Michael G. Cochrane
Co-chair, Task Force on the
Ontario Environmental Bill of Rights

Inter-Ministerial Committee on the Environmental Bill of Rights

Sally E. Marin, Chair
Counsel, Legal Services Branch
Ministry of the Environment

Ministry of Agriculture & Food

Tonu Tosine, Associate Director
Land Use Planning Branch

Ministry of Energy

Peter Fraser, Coordinator, Energy Environment,
Policy Development and Coordination Division

Ministry of the Environment

Paul Cinanni, Manager
Regional Operations

Bill Gregson, Manager
Approvals Branch

Marjan Medved, Advisor/Coordinator
Public Affairs & Communications Services
Branch

Frank Pravitz, Analyst, Fiscal Planning &
Economic Analysis Branch

Orna Salamon, Manager, Performance
Monitoring, Fiscal Planning & Economic
Analysis Branch

Paul Scale, Manager, Performance Monitoring,
Fiscal Planning & Economic Analysis Branch

Carole Vaughan, Senior Policy Analyst, Fiscal
Planning & Economic Analysis Branch

Brian R. Ward, Director
Southeastern Region

Ministry of Housing

Jeff Levitt, Solicitor
Legal Services Branch

Ministry of Industry, Trade & Technology

Jim O'Mara, Manager
Policy Development Division

Ministry of Labour

Donald Chiasson, Director
Legal Services Branch

Ministry of Housing (continued)

Ed McCloskey, Director
Health and Safety Policy Branch

Yvonne Slupinski, Senior Policy Advisor,
Health and Safety Policy Branch

Ministry of Municipal Affairs

Satish Dhar, Senior Policy Advisor
Municipal Government Structure Branch

Ministry of Natural Resources

Rick Laprairie, Senior Land Use Planning
Policy Advisor, Corporate Policy & Planning
Secretariat

Charlein Mansfield, Solicitor
Legal Services Branch

Ministry of Northern Development & Mines

Tony Buszynski, Manager
Policy Co-ordination
Corporate Planning Secretariat

John Robertson, Supervisor
Mineral Development and Rehabilitation Branch

Ministry of Transportation

Tom Graham, Senior Solicitor
Legal Services Branch

A. Jay Nuttall, Policy Adviser
Corporate Policy Branch

Ministry of Treasury & Economics

Carol Harris Lonero, Senior Policy Adviser,
Environment
Social Economics and Strategic Issues Branch

Kenneth Kagan, Solicitor
Office of Legal Services

Ontario Environmental Bill of Rights

Michael Cochrane
Co-chair, Task Force



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